

§ 122C-75. Reliance on advance instruction for mental health treatment.

(a) An attending physician or eligible psychologist who in good faith determines that the principal is or is not incapable for the purpose of deciding whether to proceed or not to proceed according to an advance instruction, is not subject to criminal prosecution, civil liability, or professional disciplinary action for making and acting upon that determination.

(b) In the absence of actual knowledge of the revocation of an advance instruction, no attending physician or other mental health treatment provider shall be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the provision of treatment to a principal in accordance with this Part unless the absence of actual knowledge resulted from the negligence of the attending physician or mental health treatment provider.

(c) An attending physician or mental health treatment provider who administers or does not administer mental health treatment according to and in good faith reliance upon the validity of an advance instruction is not subject to criminal prosecution, civil liability, or professional disciplinary action resulting from a subsequent finding of an advance instruction's invalidity.

(d) No attending physician or mental health treatment provider who administers or does not administer treatment under authorization obtained pursuant to this Part shall incur liability arising out of a claim to the extent that the claim is based on lack of informed consent or authorization for this action.

(e) This section shall not be construed as affecting or limiting any liability that arises out of a negligent act or omission in connection with the medical diagnosis, care, or treatment of a principal under an advance instruction or that arises out of any deviation from reasonable medical standards. (1997-442, s. 2; 1998-198, s. 2.)